

PETER C. HARVEY  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law  
124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101  
Attorney for the State Board  
of Medical Examiners

**FILED**

August 20, 2003

---

**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

By: **Mileidy Perez**  
**Deputy Attorney General**  
Tel. (973) 648-2500

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF MEDICAL EXAMINERS

---

IN THE MATTER OF THE LICENSE OF

CARLOS TOLEDO, M.D.  
License No. **MA27416**

Administrative Action

TO PRACTICE MEDICINE AND SURGERY :  
IN THE STATE OF NEW JERSEY

CONSENT ORDER OF  
VOLUNTARY SURRENDER  
OF LICENSURE

---

**This** matter was opened to the New Jersey State Board of Medical Examiners upon receipt of information that on or about March 8, 2003, the New York State, Department of **Health**, State Board for Professional Medical Conduct ("New York Board") **filed a** Statement of Charges against the **Respondent** alleging that Respondent deviated from medically **accepted standards** on more than one occasion by treating a patient with Plegine and Chorionic Gonadotropin for weight loss. The Respondent **was** charged with "committing professional misconduct by practicing the profession of **medicine with** negligence on **more** than **one** occasion." On or about

May 20, 2003, **the New York Board** entered an Order adopting the Surrender of License agreement signed by Respondent on April 13, 2003 whereby Respondent agreed to surrender his **license** and not to **contest the** specification of misconduct.

The above **disciplinary** action taken by the sister state of New York provides grounds for the suspension of Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(g) in that it is based on findings or admissions that would give rise to discipline in this State. It appearing that Respondent wishes to resolve this matter without formal proceedings and for good cause shown,

ACCORDINGLY, IT IS on this 13th day of August, 2003, HEREBY ORDERED AND AGREED THAT:


1. Respondent's license to practice medicine in the State of New Jersey be and hereby is voluntarily surrendered, with prejudice, precluding him from seeking reinstatement of his license in this State at any time in the future.

2. Respondent shall cease and desist from any practice of medicine or surgery in the State of New Jersey within thirty (30) days of entry of this Order.

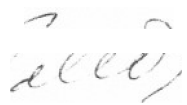
3. Respondent shall surrender his original licensure certificate within thirty (30) days of entry of this Order. In the event that Respondent is unable to produce the original licensure certificate because of loss or for any other reason, Respondent

shall file a **notarized** affidavit with the **Board** within thirty (30) days of the entry of this Order **stating** the reason **for** his inability to produce **the** original **licensure** certificate.

NEW JERSEY **STATE** BOARD OF  
MEDICAL EXAMINERS

By :   
David M. Wallace, M.D.  
Board **President**

I have read and understand the  
within Consent Order and **agree**  
to **be** bound **by** its terms. Consent  
is hereby given to the Board to  
enter into this **Order**.

  
Carlos Toledo, M.D.

7/30/03  
Date



***New York State Board for Professional Medical Conduct***

*433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863*

Antonia C. Novello, M.D., M.P.H., Dr. P.H.  
*Commissioner  
NYS Department of Health*

Dennis P. Whalen  
*Executive Deputy Commissioner  
NYS Department of Health*

Dennis J. Graziano, Director  
*Office of Professional Medical Conduct*

William P. Dillon, M.D.  
*Chair*

Michael A. Gonzalez, R.P.A.  
*Vice Chair*

Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

**PUBLIC**

May 20, 2003

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

**Carlos Toledo, M.D.  
513 21st Street  
Union City, NJ 07087**

RE: License **No. 098770**

Dear **Dr. Toledo**:

**Enclosed please find Order #BPMC 03-131 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect May 27, 2003.**

**If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.**

Sincerely,

**Ansel R. Marks, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct**

**Enclosure**

NEW YORK STATE DEPARTMENT OF HEALTH  
BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

CARLOS TOLEDO, M.D.

ORDER

BPMC No. 03-131

application of (Respondent) CARLOS TOLEDO, M.D. for an order to limit  
his practice for a period of ninety days, and thereafter to surrender his license as a  
physician in the State of New York. The application annexed hereto is made a part of  
this Order. It is

ORDERED, that the Surrender, and its terms, are adopted and SO ORDERED.  
That the Surrender shall be *effective* 90 days after the issuance of this Order,  
and it is further

ORDERED, that effective immediately upon the issuance of this Order, the  
Respondent's practice shall be limited for a period of 90 days pursuant to the  
terms set forth in the application annexed hereto, and it is further

ORDERED, that at the time that the license Surrender goes into effect, the  
name of Respondent be stricken from the roster of physicians in the State of  
New York; it is further

ORDERED, that this Order shall be *effective* upon issuance by the Board,

Mailing of a copy of this Consent Order, either by first class mail to  
Respondent at the address in the attached Consent Agreement or by certified  
mail to Respondent's attorney, OR  
by facsimile transmission to Respondent or Respondent's attorney,  
whichever is first.

ORDERED.

3-20-03

  
WILLIAM P. DILLON, M.D.

Chair  
State Board for Professional Medical Conduct

**NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT**

**IN THE MATTER  
OF  
CARLOS TOLEDO, M.D.**

**SURRENDER  
of  
LICENSE**

**CARLOS TOLEDO, M.D., representing that all of the following statements are true, deposes and says:**

**That on or about June 5, 1967, I was licensed to practice as a physician in the State of New York, and issued License No. 098770 by the New York State Education Department.**

**My current address is 513 21<sup>st</sup> Street, Union City, New Jersey 07087 and I will advise the Director of the Office of Professional Medical Conduct of any change of address.**

**I understand that the New York State Board for Professional Medical Conduct has charged me with one specification of professional misconduct.**

**A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Order and Surrender of License.**

**I am applying to the State Board for Professional Medical Conduct to surrender my license as a physician in the State of New York, as set forth below, on the grounds that I agree not to contest the specification of misconduct, in full satisfaction of the charges against me.**

**Effective ninety days after the issuance of this Order:**

**I agree to the Surrender of my License.**

**Effective immediately upon the issuance of this order and continuing until my license surrender becomes effective:**

**Pursuant to §230-a(3) of the Public Health Law, my license**

to practice medicine in the state of New York shall be limited to preclude me from prescribing, dispensing, and/or administering Chorionic gonadotropin.

During the period of time my license is limited, I shall be subject to the following Conditions:

- I shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning me.
- I shall respond in a timely manner to all OPMC requests for written periodic verification of my compliance with this Order.
- I shall meet with a person designated by the Director of OPMC, as directed. I shall respond promptly and provide all access, documents, and information within my control, as directed.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

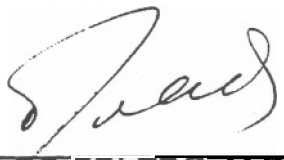
I understand that if the Board does not accept this Application, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this application shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board accepts the Surrender of my License, the Chair of the Board shall issue a Surrender Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

I ask the Board to accept this Surrender of License of my own free will and not

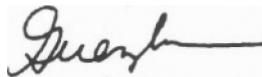
under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order. I have not elected to be represented by Counsel.

DATED 4/13/03

  
\_\_\_\_\_  
CARLOS TOLEDO, M.D.  
RESPONDENT

The undersigned agree to Respondent's attached Surrender of License and to its proposed penalty, terms and conditions.

DATE: 5/7/03



DANIEL GUENZBURGER  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 5/19/03



DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

Exhibit A

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
OF  
CARLOS TOLEDO, M.D.

STATEMENT  
OF  
CHARGES

**CARLOS TOLEDO, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 5, 1967, by the issuance of license number 098770 by the New York State Education Department.**

FACTUAL ALLEGATIONS

- A. In or about and between October 2000 and February 2001 the Respondent treated Patient A, a 23 year old female, on multiple occasions at his office located 436 For! Washington Avenue, New York, New York 10033. Patient A is identified in the annexed appendix. Respondent deviated from medically accepted standards on more than once occasion by treating Patient A with:**
- 1. Plegine .**
  - 2. Chorionic Gonadotropin.**

SPECIFICATION OF CHARGES

**SPECIFICATION**

**NEGLIGENCE ON MORE THAN ONE OCCASION**

**Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3) by practicing the profession of medicine with negligence on**

more than **one** occasion **as alleged in the facts** of two of **more** of the following:

1. Paragraphs A, A1, andlor A2.

**DATED:**

*May 8*  
March, 2003  
New York, New York

A handwritten signature in black ink, appearing to read 'RN', is written over a horizontal line.

**Roy Nemerson**  
Deputy Counsel  
**Bureau of Professional**  
Medical Conduct

EXHIBIT "B"

**GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A  
REVOCATION, SURRENDER OR SUSPENSION (of 6 months or more)  
OF A MEDICAL LICENSE**

1. Respondent shall immediately cease and desist the practice of medicine in compliance with the terms of the Surrender Order. Respondent shall not represent himself or herself as eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within fifteen (15) days of the Surrender Order's effective date, Respondent shall notify all patients that he or she has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Within thirty (30) days of the Surrender Order's effective date, Respondent shall have his or her original license to practice medicine in New York State and current biennial registration delivered to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299.
4. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within thirty (30) days of the Surrender Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least six (6) years after the last date of service, and, for minors, at least six (6) years after the last date of service or three (3) years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or sent at reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of inability to pay.
5. Within fifteen (15) days of the Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender his or her DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
6. Within fifteen (15) days of the Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at his practice location, Respondent shall dispose of all medications.
7. Within fifteen (15) days of the Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health

care services.

8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by himself or others) while barred from practicing medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.

9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for six (6) months or more pursuant to this Order, Respondent shall, within ninety (90) days of the Order's effective date, divest himself/herself of all financial interest in such professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the Order's effective date.

10. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to four (4) years, under Section 6512 of the Education Law. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under Section 230-a of the Public Health Law.

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE  
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE  
HAS BEEN ACCEPTED**

**APPROVED BY THE BOARD ON MAY 10, 2000**

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

**1. Document Return and Agency Notification**

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (PEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

**2. Practice Cessation**

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

### 3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

### 4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of

**general** circulation in the geographic vicinity in which the **practice was** conducted. At the **end** of the three month period, the licensee **shall file** with the Board the name and telephone **number** of the contact person who **will have access to medical** records of former patients. **Any** change in that **individual** or his/her **telephone** number shall **be** promptly **reported** to the Board. When a patient or his/her representative requests a copy of his/her medical record or **asks** that record **be forwarded** to another health **care** provider, the licensee shall promptly **provide** the record without charge **to the** patient.

## **5. Probation/Monitoring Conditions**

With respect to any licensee who is *the subject* of any Order **imposing a** probation or monitoring requirement or a stay of **an** active **suspension**, ~~in~~ whole or **in** part, which is conditioned upon compliance with a **probation or monitoring** requirement, the licensee shall fully cooperate with the Board **and its designated** representatives, including the Enforcement Bureau ~~of~~ the Division of **Consumer Affairs**, in ongoing monitoring of the licensee's status and practice. Such monitoring shall **be** at the expense of the disciplined practitioner.

(a) Monitoring of practice **conditions** may include, **but is not** limited to, inspection of the professional premises and equipment, and inspection **and** copying of patient records (confidentiality of patient **identity** shall **be** protected **by** the Board) to verify compliance with the Board Order and accepted **standards** of practice.

(b) Monitoring of **status** conditions for an impaired practitioner may include, **but is not** limited to, practitioner cooperation in providing **releases** permitting unrestricted access to records and other information to the extent permitted **by law** from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, **or** maintained **by** a rehabilitation program for impaired practitioners. If bodily substance monitoring has **been ordered**, the practitioner shall fully cooperate **by** responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

### ADDENDUM

Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:

Social Security Number: \_\_\_\_\_

List the Name and Address of any and all Health Care Facilities with which you are affiliated:

---

---

---

---

List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:

---

---

---

---

Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).

---

---

---

<sup>1</sup> Pursuant to 45 CFR-Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.

**NOTICE OF REPORTING PRACTICES OF BOARD**  
**REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings or motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda of the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.